5/41/027

United States Department of the Interior

BUREAU OF LAND MANAGEMENT
RICHFIELD FIELD OFFICE
150 East 900 North
Richfield, UT 84701

IN REPLY REFER TO:

3809
(U-050)
UTU-71640
August 14, 2000

Mr. Steven Sorenson
KSC Rocks
235 North Main
Kanosh, Utah 84637

RE: Updated Notice and Inspections of Project Area

Dear Mr. Sorenson:

On June 14, 2000, the project area for KSC Rocks was inspected by staff of the Bureau of Land Management and the Utah Division of Oil, Gas, and Mining. This project area is in section 23, T. 26 S., R. 4 W., SLM. The case file is serialized as UTU-71640, and the notice is filed for mining activity on mining claim KSC No. 1 (UMC-362224).

At that inspection, you proposed that the present quarry would be extended toward the northwest and that the waste rock would be stockpiled east of the quarry. You were asked to update your notice with the BLM to address the quarrying activity, placement of stockpiles, and safety related to those operations. A sketch map was requested to show the locations of the quarry and stockpiles.

On August 3, 2000, an updated notice was filed in this office. That notice has been reviewed by BLM staff.

On August 9, 2000, Michael Jackson completed a survey of the site with a compass and a threaded-measurement device, and that map is enclosed. Based on the previous inspection with you, the locations of the proposed waste rock dump and the extension of the quarry are shown on this map. If that information is incorrectly displayed on the map, then you should notify Michael Jackson in this office.

At the quarry at present, the highwall is about 10 feet in height, and the quarry would be extended to an existing, upper bench that is an open cut. (See map.) The elevation difference is about 30 feet, thus, mining would increase the height of the highwall, if the quarry floor is maintained at the present level. Increasing the height of the highwall is a safety concern. Mining in that area could also leave the access road elevated above the quarry floor, which would also be a safety concern. In addition, the waste rock dump, based on rough volume estimates, could exceed 15 feet in vertical height, extend northward of the present lower bench, and impede natural runoff in the ephemeral, stream drainage.

Based on the above information and in order to assure public safety, the following is required:

Highwalls and any other slopes shall be maintained in a manner that will not pose a safety hazard to humans, wildlife or livestock. If your mining activity would create a highwall or waste rock dump that exceeds 10 feet in height, then an amended notice must be submitted to this office, prior to creating that disturbance, to address the measures that you would take to ensure public safety and slope stability.

In order to avoid unnecessary or undue degradation of the land, the following actions are recommended:

1. The upper 6 inches of topsoil material at undisturbed areas should be stripped and stockpiled separately from any waste rock material. If this material is stockpiled for more than one year, then the material should be seeded and vegetation established to stabilize the pile. The topsoil stockpile should be placed in a location that will not be susceptible to erosion and an area that will not be disturbed by future mining operations. *Please indicate the location that is proposed for the topsoil stockpile on the enclosed map, and return to this office.*

2. Any trees removed as part of your mining operations should be stockpiled as slash and burned during an appropriate season. *At this time, no burning is allowed on federal land due to the extreme fire danger.* Prior to any burning, you may want to notify the Richfield Interagency Fire Dispatch. The phone number is 896-8404.

3. Stockpiles or dumps should not block the drainage that trends through the project area.

4. After mining out a portion of the quarry and to the extent practical, the quarry should be backfilled and recontoured with waste rock.

A seed mix, rate of application, and sequence for re-distributing the topsoil was provided to you in a letter last year.

In your latest notice, you stated the proposed completion date is July 1, 2010, and that less than 1 acre will be disturbed. Based on the enclosed map, your total disturbance may be less than 1 acre; however, an update of your ongoing operations is requested annually.

A small trench is shown on the enclosed map, west of the existing quarry, and is assumed to be part of your operations. To our knowledge, that trench was not described in the previous notices. That disturbance is now considered be part of your work.

As you have been informed in previous correspondence and in the field, the subject stone deposit may be a common variety of mineral. A common variety of mineral is a salable mineral subject to disposal under the Materials Act of 1947, and an uncommon variety is a locatable mineral subject to the general mining laws. The test for determining whether a stone is an uncommon variety is included in *McClarty* v. *Secretary of the Interior*, 408 F 2d. 907, 908 (9th Cir., 1969). Based on that court decision, the standards for determining whether a stone is an uncommon variety of mineral include the following criteria:

1. There must be a comparison of the mineral deposit in question with other deposits of such minerals generally;
2. The mineral deposit in question must have a unique property;
3. The unique property must give the deposit a distinct and special value;
4. If the special value is for uses to which ordinary varieties of the mineral are put, the deposit must

have some distinct and special value for such use; and

5. The distinct and special value must be reflected by the higher price which the material commands in the marketplace, or by reduced cost or overhead so that the profit to the claimant would be substantially more.

The unique property which imparts a distinct and special value must be an intrinsic factor that is inherit in the deposit. Extrinsic factors, such as scarcity, proximity to market, value added by manufacturing or marketing techniques, and other external factors, unrelated to the deposit itself, are not unique properties and do not give the deposit a distinct and special value.

If the subject deposit is a common variety, then the stone should be disposed under the Materials Act of 1947 as a sales contract. If you do not obtain a sales contract and the stone is a common variety, then you could be liable for trespass damages and subject to the administrative costs for such a determination.

You are requested to provide any data that would support your contention that the subject deposit is an uncommon variety, subject to the mining laws. This information could include intrinsic properties of the deposit, mining and processing techniques and costs, and marketing including sale price and comparison to other stone. Any proprietary information will be treated as confidential, if you identify and label that information as such.

If you have any questions, please contact Michael Jackson at (435) 896-1522.

Sincerely,

Dave Henderson
Associate Field Manager

Enclosure: Plan View Map of Project Area

cc: Lynn Kunzler, Division of Oil, Gas and Mining, State of Utah, Box 145801, Salt Lake City, Utah 84114-5801

Plan View Map

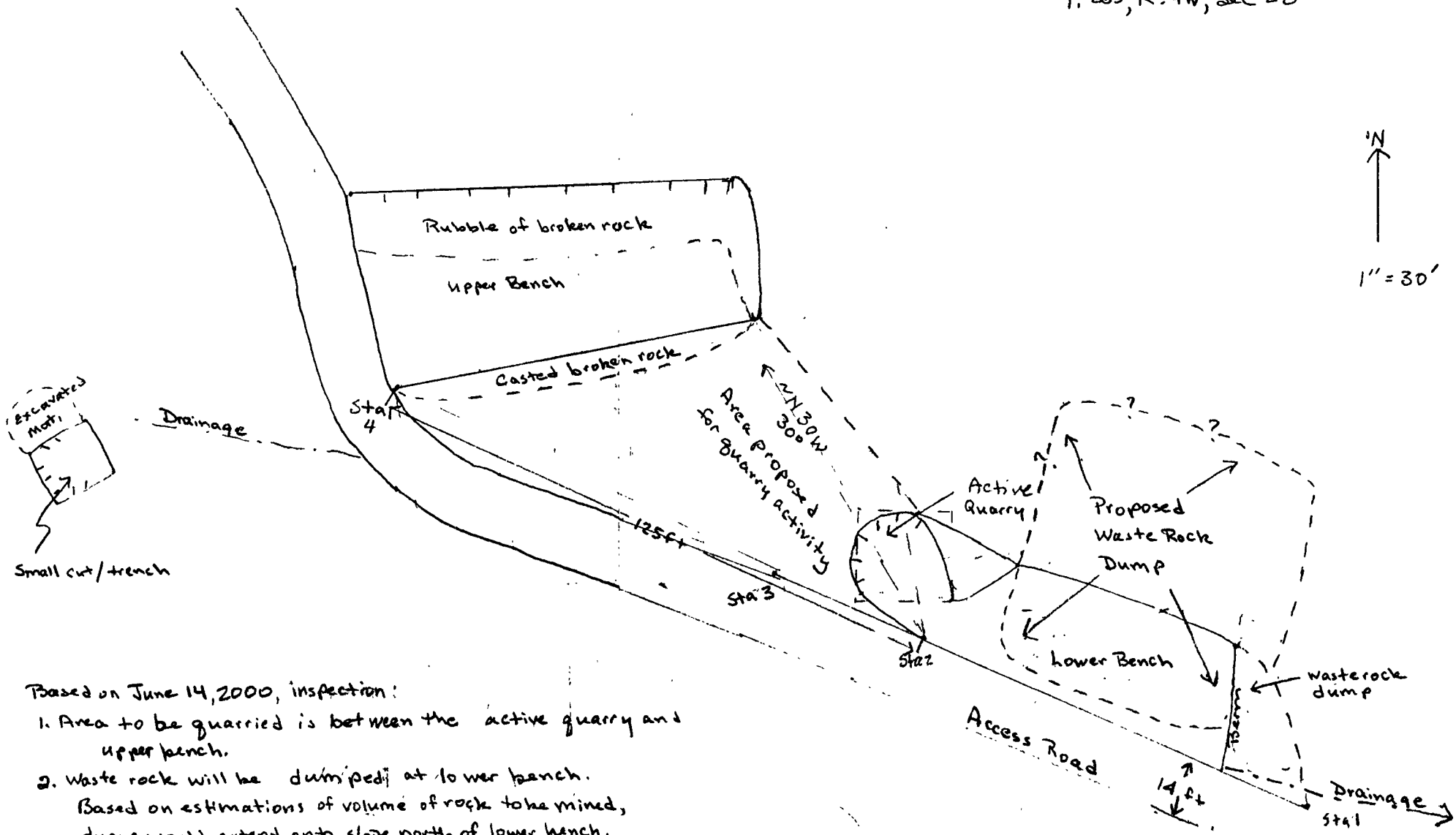
August 9, 2000

M. Jackson

Case File UTU-71640

KSC Rocks

T. 26S, R. 4W, Sec 23



Based on June 14, 2000, inspection:

1. Area to be quarried is between the active quarry and upper bench.
2. Waste rock will be dumped at lower bench.
   Based on estimations of volume of rock to be mined, dump would extend onto slope north of lower bench.
   Actual configuration of quarry is not planned by operator at this time.